



POWERING NEW GROWTH

moving tennessee to a sustainable economy





Energy Efficiency and Conservation Block Grants

Administration Workshop
Brooxie Carlton





Schedule

Welcome and Program Overview	1:00 - 1:15
General Information	1:15 - 2:00
NHPA	2:00 - 2:30
Break	2:30 - 2:45
Davis-Bacon	2:45 - 3:15
Buy-American	3:15 - 3:45
Questions	3:45 - 4:00





Program Overview





Program Overview

- The EECBG Program is funded by the U.S. Department of Energy (DOE) under the American Recovery and Reinvestment Act (ARRA)
- All ARRA reporting requirements apply to each of the subgrants





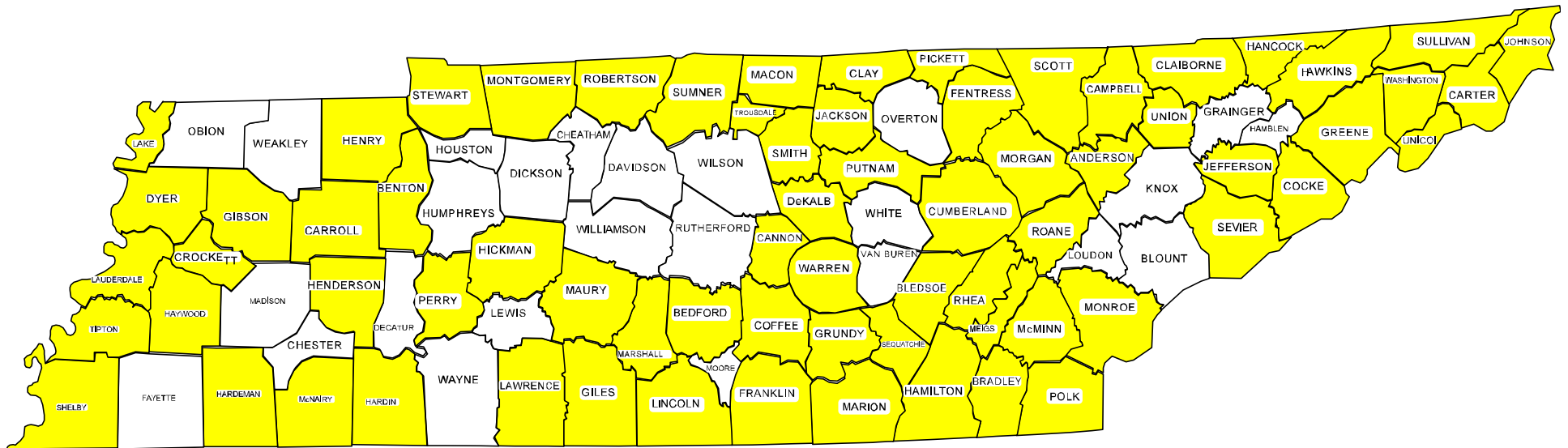
Applications and Awards

- 230 applications received
- 146 applications funded totaling **\$13.43m**
 - Building Retrofits – 100 grants
 - Traffic Signals and Street Lights – 19 grants
 - Renewable Energy – 3 grants
 - Combination – 24 grants
- 70 counties are represented in the awards





EECBG Awardees





Timeline

Milestones	Anticipated Dates
Round 1 Awards Announced	April 21
Round 2 Awards Announced	July 1
Contracts Issued to Local Governments	August
Contracts Due to State	2 weeks later
Contracts Approved and Projects Ready to Begin	Approximately 3 weeks later
Projects Completed	June 30, 2011





Eligible Activities

- Development of an **Energy Efficiency and Conservation Strategy** (i.e. Community Energy Plan)
- Energy efficiency **building retrofits** on existing local government facilities (schools, courthouse, city hall, county hospital, etc.)
- Installation of **small-scale renewable energy systems** on local government buildings
- **LED lighting retrofits** on existing traffic signals and street lighting





Ineligible Activities

- “By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, for gambling establishments, aquariums, zoos, golf courses or swimming pools.” (EECBG Special Terms and Conditions)
- Roofing, siding, replacing computers, construction, decorative poles for street lights, painting, etc.
- Anything outside of your application unless it is approved by the state





General Information





Reporting Overview

- Projects are subject to progress reporting, financial reporting, performance monitoring and other requirements
- Financial reports and project status reports will be required on a monthly, quarterly and annual basis
- Specific performance metrics will be required to be reported





Important Performance Metrics

- Jobs created
- Hours worked
- Energy saved
- Renewable energy capacity installed and generated
- Greenhouse gas emissions reduced
- Energy cost savings
- Funds leveraged





Additional Requirements

- Maintain a DUNS number
- Annually update information with Central Contractor Registry (CCR)
- Follow Davis-Bacon Wage Act
- Follow “Buy American” provisions
- Comply with NEPA regulations
- Complete Section 106 Review
- Develop a Waste Stream Plan





Resources to Help with Reporting

- Your best resource: the TN EECBG website
<http://tennessee.gov/ecd/recovery/eecbg.html>
- Other resources
 - TN EECBG Subgrantee Information Packet
 - Special Terms and Conditions and other DOE publications
 - [EERE Solution Center](#) website and webcasts





Reports

- We have a form for you to use to report on performance metrics, financial metrics and savings
- Monthly reports are due on the 5th of each month to brooxie.carlton@tn.gov
- Quarterly reports are due on the 5th of the month after the quarter ends





Final Report

- Plan to monitor energy savings
- Submission of Waste Stream report
- Total hours worked on the project
- Summary of actions completed
- Information on funds leveraged





Monitoring

- Monthly and quarterly reports will be reviewed by ECD
- ECD will conduct site visits and complete energy audits
- DOE and other federal organizations can complete a site visit at any time as well





Procurement

- Basically, use the competitive procurement processes your community already has in place and keep good records
- “All procurement transactions must be conducted in a manner providing full and open competition”
- Most purchases will be covered by this clause
 - Procurement by Small Purchase Procedures: This method of procurement covers relatively simple and informal procurement methods for securing services, supplies, or other property not exceeding \$100,000 in cost. With this method, price or rate quotations must be obtained from an adequate number of qualified sources. (10 C.F.R. 600.236(d))

Information from Guidance for EECBG Recipients on use of Procurement Methods, from DOE, June 23, 2010, http://www1.eere.energy.gov/wip/pdfs/eeecbg_procurement_guidance.pdf



Procurement

- If the Grantee or Subgrantee can demonstrate that it is infeasible to use small purchase procedures, sealed bids, or competitive proposals, and that:
 - the item is available only from a single source;
 - the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - the awarding agency authorizes noncompetitive proposals; or
 - after solicitation of a number of sources, competition is determined inadequate,then it may use noncompetitive procurements.





Subcontractor Selection

- See Sections D.17 and E.10 of the contract for more information on procurement
- Ensure contracts with the subcontractors contain Wage Determinations and Special Terms and Conditions
- Ensure NEPA, Historic Preservation, other requirements are fulfilled
- Check for debarment





Debarment

- Excluded Parties List System (www.epls.gov)
- When you select a contractor, run their DUNS number and name through this website to ensure they are not excluded from doing business with the federal government
- Then send the contractor's information to us and we will approve the selection
- Wait for an email from the EECBG Program Manager before you proceed with the project





Invoices

- Complete the Invoice Checklist each time you submit an invoice to our office
- You can turn in invoices monthly—by the 21st of the month
- Invoices will be processed by ECD and the funds then deposited in your account





Waste Stream Plan

- We have a sample on our website and that we sent with your contracts
- Requires a report within 90 days of completing your project to report on how you disposed of your waste
- Important to make sure your subcontractors are aware that they will need to keep up with how and where they dispose of waste





Special Terms and Conditions

- Applies to any recipient or subrecipient receiving federal funding
- Covers Waste Stream Plan, Davis Bacon, Buy American and other information you need to know
- **Is subject to change!** The updates will be on our website and we will try to let you know of any significant changes





Required Posters

NOTICE

THIS ENTITY IS A RECIPIENT OF
**AMERICAN RECOVERY AND
REINVESTMENT ACT** FUNDS. IF YOU
HAVE KNOWLEDGE OF ANY
ACTIVITY WHICH YOU CONSIDER TO
BE ILLEGAL, IMPROPER, OR
WASTEFUL, PLEASE CALL THE
STATE COMPTROLLER'S TOLL-FREE
HOTLINE:

1-800-232-5454



Know Your Rights Under the Recovery Act!

Did you know?

The American Recovery and Reinvestment Act of 2009¹ provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds.

Who is protected?

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

How are Whistleblowers Protected?

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

What types of disclosures are protected?

The disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

Take Action!

Log on to Recovery.gov for more information about your rights and details on how to report at www.recovery.gov.

¹ Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5





Historic Preservation





Davis-Bacon

Information from DOE webinar June 10, 2010

http://www1.eere.energy.gov/wip/pdfs/recipient_subrecipient_dba_training.pdf



TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT • WWW.TNECD.GOV



Background Info

- Federal law passed in 1931
- Applicable to contracts in excess of \$2000 for construction, alteration or repair of public buildings
- Requires contractors and subs to pay laborers wages **and** fringe benefits determined by the Secretary of Labor to be prevailing for your location





When Davis-Bacon Does NOT Apply

- Davis-Bacon does not apply if you are using city/county employees to do the work!
- Complete the “Acknowledgment of Davis-Bacon Requirements” before beginning your project and submit to EECBG Program Manager





Davis-Bacon Wages

- The information sent to you might not be current by the time you select your subcontractors
- How to find current Davis-Bacon wages
 - <http://www.wdol.gov/dba.aspx#0>
 - Click “Browse by state/territory” and find Tennessee
 - Use the “Building” category for your county
- You must also look at the TN Prevailing Wages and pay whichever is highest
 - <http://tennessee.gov/labor-wfd/prevail.html>
- Include the wage determinations in your contract





TPW vs. DOL Wage Determinations

- DOL Wage Determinations include wages and fringe benefits, but TN Prevailing Wages only contain wages
- So, to compare the two, add the wages and fringe benefits together for the DOL Wage Determinations and compare that number to the TN Prevailing Wages





Reporting Davis-Bacon Info

- Subcontractors will send original copies of their payrolls to the subgrantees who will send them to ECD
- Contractors can use the Option WH-347 form
- Payroll information must be retained for 3 years from the completion of the final project report



Subcontractor Responsibilities

- Records to maintain
 - Name, address, and Social Security number of each employee
 - Each employee's work classifications
 - Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents
 - Daily and weekly numbers of hours worked
 - Deductions made
 - Actual wages paid
 - If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected
 - If applicable, detailed information regarding approved apprenticeship or trainee programs
- Contractors must pay employees weekly





Monitoring

- What ECD will be looking for in the payrolls submitted
 - Is the correct wage determination being used?
 - Has the contractor paid the correct rate for the job classification?
 - Has the contractor paid fringe benefits appropriately?
 - Is the certification signed?
 - Does the number of hours of DB work correlate to the gross wages paid?
 - Are deductions appropriate?





Monitoring

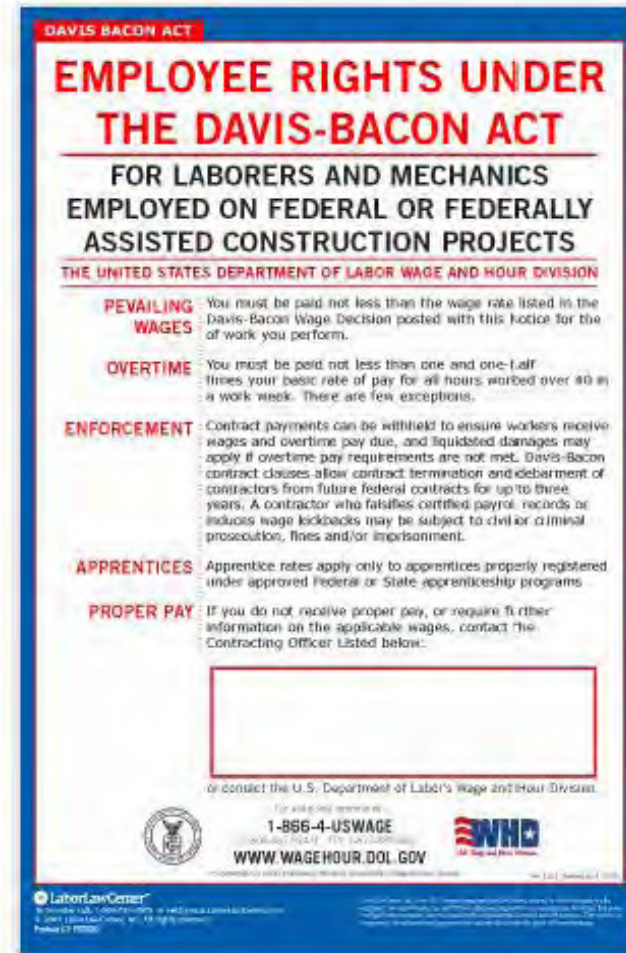
- DOE will conduct compliance monitoring with ECD and investigate complaints and potential violations
- ECD will conduct compliance monitoring with subgrantees and investigate complaints and potential violations
- Contractor can be debarred from receiving any federal contracts for 3 years if they are found to not be in compliance with Davis-Bacon





Davis-Bacon Poster

- Davis-Bacon Poster must be displayed at the work site along with the Wage Determinations
- <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>





Resources

- Guidance from DOE, April 12, 2010
 - http://www1.eere.energy.gov/wip/pdfs/eecbg_program_guidance_dba_121709_10-004_revised_april_2010.pdf
- U.S. Department of Labor
 - www.dol.gov
- Information from DOE (FAQs, Desk Guide, etc)
 - http://www1.eere.energy.gov/wip/davis-bacon_act.html
- TN LWD Prevailing Wage Information
 - <http://tennessee.gov/labor-wfd/prevail.html>





Buy American

Information from DOE webinar June 9, 2010,

http://www1.eere.energy.gov/recovery/pdfs/buy_american_webinar_20100906.pdf



TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT • WWW.TNECD.GOV



Buy American

- “None of the funds appropriated for or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless
 - All of the iron, steel, and manufactured goods used in the project are produced or manufactured in the United States.” (2 CFR 176.70)





Exceptions

- **Non-availability** (not produced or manufactured in sufficient and reasonably available quantities of a satisfactory quality)
- **Unreasonable cost** (will increase cost of the *overall project* by more than 25%)
- **Inconsistent with the public interest**





Exceptions

- There is a process to go through to get an exception; it is something we would do together
- It will take several weeks and a considerable amount of information is needed for it to be approved





What is a manufactured good?

- There is no requirement with regard to the origin of components or subcomponents in manufactured goods used in a project, as long as the manufacturing occurs in the United States. (See 2 CFR 176.70(a)(2)(ii))
- So what constitutes “manufacturing?”
- Production or manufacturing facility is physically located in the United States or its territories



What is a manufactured good?

- **Manufactured Good:** “Good brought to the construction site for *incorporation into the building or work* that has been processed into a specific form and shape; or combined with other raw material to create a material that has different properties than the properties of the individual raw materials.” See 2 C.F.R. 176.140(a)(1).
- Only manufactured goods that **are permanently attached to or fixed to real property** are covered by the Buy American Recovery Act provisions.





Documentation

- Contractors and vendors should be held responsible for complying with the Buy American provisions.
- Grantees, sub-recipients and subawardees should ask contractors and vendors for letters of certification.





Appropriate Documentation

- Receipts for items produced domestically indicating such
- A documented certification from the contractor, vendor, distributor, supplier, or manufacturer verifying that the product was manufactured domestically
- Detailed and verifiable information supporting the claim that the manufactured good has undergone substantial transformation in the United States and/or
- Other reasonable documentation per the discretion of the state, local, or tribal government financial assistance recipient demonstrating compliance with the Buy American provisions





Waivers

- LED traffic lights and signals
- Fluorescent electronic lighting ballasts
- Compact fluorescent light bulbs
 - Small exceptions listed in official waiver
http://www1.eere.energy.gov/recovery/pdfs/buy_american_waivers.pdf
- These waivers are both retrospective and prospective.





Waivers

- May 24, 2010

Nonavailability Waiver for 7 Items:

1) **Nonresidential programmable thermostats**; 2) commercial scale fully automatic wood pellet boiler systems; 3) facility and small district wood pellet and chip boiler furnaces; 4) variable refrigerant flow zoning and inverter driven ductless minisplit HVAC systems; 5) electrical “smart” strips/surge protectors; 6) gas or propane tankless water heaters up to 200,000 BTUs; 7) and fully enclosed continuous composting systems





Waivers

- “De Minimus” waiver for incidental items up to a limit of no more than 5 percent of the total cost of the iron, steel, and manufactured goods used in and incorporated into a project.





Questions?





FAQs

- Check our website often; we'll keep it up-to-date with new questions and answers





Contact Us

**Energy Policy Office
TN Dept of Economic & Community
Development**

Toll-free: 1-800-342-1340

ecd.energypolicy@tn.gov

<http://tnecd.gov/recovery/eecbg.html>

**Brooxie Carlton, 615-741-2994,
brooxie.carlton@tn.gov**

